

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

TREVIS CALDWELL,

Plaintiff,

v.

//

CIVIL ACTION NO. 1:09CV80
(Judge Keeley)

HARLEY G. LAPPIN,
MR. ROBINSON,
JAMES CROSS,
DELBERT SAUERS,
JOE DRIVER,
SALAMI,
CASE MANAGER PULICE,
UNKNOWN NAMED CAPTAIN,
SIS LIEUTENANT H. KOBAYASHI, and
THE FEDERAL BUREAU OF PRISONS,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION (DKT. 84)
AND DISMISSING CASE WITH PREJUDICE

Pending before the Court is the Report and Recommendations entered on September 16, 2010, by United States Magistrate Judge David J. Joel (dkt. 84)("R&R"). In the R&R, the Magistrate Judge recommends that the Court dismiss this pro se suit, arising under Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971). The Magistrate Judge also advised the parties, including the pro se plaintiff, Trevis Caldwell ("Caldwell"), to file any objections within fourteen days of receiving service, and that such objections should state "those portions of the recommendations to which objection is made and the

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basis for such objections." (R&R at 21.) Caldwell accepted service of the R&R on September 20, 2010.

On October 12, 2010, Caldwell filed a Notice of Change of Address (dkt. 86), a Motion of Information [sic] (dkt. 87), and a Motion of Appeal (dkt. 88). In these filings, Caldwell asserts that the Bureau of Prisons transferred him from F.C.I. Talladega to U.S.P. Lewisburg, where he did not arrive until October 4. The Court considers this information as an explanation for Caldwell's failure to timely file his objections to the R&R, which the Court accepts as a good faith basis for delay. The Court further construes Caldwell's Motion of Appeal not as a motion, but as his objections to the R&R. In this document, Caldwell states in full:

On 10-05-10 the plaintiff recieved the opinion/report and recommendation in wich the United States Magistrate Judge David J. Joel recommended that the Motion for Summary Judgement be granted and this case be dismissed with prejudice from the active docket of this Court. The plaintiff "objects" to the Magistrate Joel recommendations of plaintiffs claim, in the whole recommendation of Magistrate Judge Joel. Plaintiff objects and ask for a appeal.

(Dkt. 88 at 1-2.)

The objections neither describe the portions of the R&R to which Caldwell objects, nor set forth any factual or legal basis, as Magistrate Judge Joel directed. In Page v. Lee, 337 F.3d 411, 416 n. 3 (4th Cir. 2003), the Fourth Circuit held that under

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Fed.R.Civ.P. 72(b), objections to an R&R must be specific, setting forth truly disputed issues. General objections as Caldwell makes here do not meet the standard of Rule 72(b). Accordingly, the Court **ADOPTS** the R&R in its entirety, **GRANTS** the motion to dismiss, or in the alternative for summary judgment (dkt. 75), and **DISMISSES** this case **WITH PREJUDICE**.

It is so **ORDERED**.

The Court directs the Clerk to prepare a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se plaintiff via certified mail, return receipt requested.

DATED: October 15, 2010.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE